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MISCELLANY.

Bar Examination—List of Successful Applicants.

By an oversight Irby Turnbull's name was omitted from the list of successful applicants who passed the bar examination at Wytheville, June 18th.

The Declaration of London.—In the multitude of counsellors there may be confusion as well as wisdom, and there can be little doubt that the work of the last Hague Peace Conference was greatly handicapped by the unwieldy nature of the gathering. One of the chief subjects in the programme of the Conference was the preparation of a Code of the Laws of Maritime War which was to correspond with the Code of the Laws of War on Land that had been drawn up by the first Peace Conference. But after the haggings and discussions of several months, agreement was reached upon very few points, and the Conventions that were eventually drawn up upon parts of the subject were more high-sounding than useful. On the other hand, the Conference achieved a great forward step in drawing up a scheme for the foundation of an International Prize Court to hear appeals from the decisions of national Courts touching the rights and property of neutrals. The constitution and function of the Court were admirable, but unfortunately, owing to the failure of the Conference to establish a code of maritime law, there was no clear and definite body of rules relative to prizes accepted by the nations which the Court could administer; and it was provided in the Convention that if no generally recognized rule of international law existed upon a question which came before it, the Court should give judgment "in accordance with the general principles of justice and equity." This reference to vague abstractions was obviously very unsatisfactory, and the English Government, which had taken the chief part in the promotion of the Court, felt that it could not ratify or proceed with the Convention unless and until the main heads of the law which was to be administered had been agreed upon between the chief maritime Powers. To this end they summoned an International Conference, which met in London in November last, under the presidency of Earl Desart, and was attended by representatives of the ten leading States.

The object of the Conference was simply to bring about an agreement upon the laws of naval warfare and to substitute exact provisions for the more or less indefinite usages of different States which have tended to give rise to controversy, or, as it is put in the official report on the text of the Declaration, "to note, to define, and, when needful, to complete rules which might be considered as customary law." The result of its labours has been the "Declaration of London," which complements the Declaration of Paris of 1856 (wherein the four

leading principles of the modern law of maritime warfare were laid down) by an exact and detailed set of regulations covering the following questions: Blockade, Contraband of War, Unneutral Service, Destruction of Neutral Prizes, Transfer to a Neutral Flag, Enemy Character, and Convoy. Looking to the results as a whole, it may be said that the Conference has been strikingly successful; it has done that which the Hague Conference failed to do, not completely, indeed, but yet so as to mark a great step forward in the development of international law. Upon two topics of great importance it failed to secure agreement—the conversion of merchantmen into war-vessels, and the question whether domicile or nationality was to determine the enemy character of property. The first is a burning subject, of which the seriousness became apparent in the Russo-Japanese war, when the *Smolensk* and the *St. Petersburg*, sailing through the Dardanelles as merchantmen, suddenly transformed themselves on the high seas into cruisers and started to prey upon neutral shipping. England insists that such action is altogether illegal, and that if conversion on the high seas is to be allowed at all, it must be under strict regulation. The Continental Powers claim conversion as an absolute right, and generally resist any attempt to subject it to any limitation; and the matter is too novel to be capable at present of international adjustment. Fuller, and perhaps harder experience as neutrals may, it is hoped, lead foreign nations in time to accept our standpoint.

On the subject of "Enemy Character," England, in the interests of international concord, was willing to abandon her traditional principle of making domicile the dominant factor and to accept the Continental principle of nationality; but unanimity could not be attained on this basis, so that the matter had to be left unsettled. It is, however, of secondary importance, and again the salutary influence of time may be counted upon to foster uniformity.

To turn from its failures to its successes, probably the greatest achievement of the Conference has been the definition and determination of the law of contraband, mainly upon the lines of the English proposals. Three classes of commerce are recognized—absolute contraband, conditional contraband, and articles incapable of being declared contraband. The limits of each of these classes are settled; the doctrine of "continuous voyage" is accepted for the first and rejected for the second class; the penalties for each kind of forbidden trading are fixed, and provision is made as to the proof of the illegal destination of a cargo.

Next in importance is the determination of the rules of blockade, again for the most part upon English lines. The requirements for an effective blockade, the nature of the notice which must be given to a neutral Government, the circumstances under which a neutral merchantman may be seized for breach, the area within which capture is allowed, and the penalty for the offence—all these points, which have worried jurists for a century, are clearly settled.

England, on the other hand, has made concessions upon the subject of Convoys and the Destruction of Neutral Prizes. As regards the first, she has waived her objection to the immunity from search of neutral merchantmen under national convoy; but the derogation from her belligerent powers is rather nominal than real, as she has not in fact exercised the right for a century. As to the second, while she has obtained the acceptance of the general principle that a neutral vessel which has been captured may not be destroyed by the captor, but must be taken into port for trial, she has admitted exceptions to that principle in cases of belligerent necessity. Doubtless compromise on these lines was the necessary condition of agreement, and the careful limitation of the right to destroy, coupled with the provision for full compensation where it has been wrongfully exercised, render the settlement a vast improvement upon the former unregulated licence which led to the outrages during the Russo-Japanese war upon the *Allanton*, the *St. Kilda*, and the *Knight Commander*, for some of which proper reparation has not yet been obtained.

Finally, we may note that the conditions under which transfer of a vessel to a neutral flag in time of war will be recognized for the first time receive exact determination, and that the right of a belligerent to remove from a neutral merchantman as a prisoner of war an individual embodied in the armed forces of the enemy—a right which we fiercely contested during the Trent controversy in the American Civil War—is now expressly established.

Among the final articles of the Declaration it is provided that its regulations must be treated as a whole and cannot be separated; and the signatory Powers undertake to insure the mutual observance of the rules in any war in which all the belligerents are parties to it. In other words, there is now a Code of the Laws of Maritime War so far as it affects neutrals which all the great naval Powers have covenanted to observe, and which must therefore ere long command the assent of the whole civilized world. If, as is hoped, the nations will now all ratify the International Prize Court Convention, the joint outcome of The Hague and London Conferences will be the establishment of what has long been an ideal aspiration—an international judiciary administering one international law.—*London Law Journal*.